

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

RON BOUNDS,

Plaintiff,

v.

MAGGIE MILLER-STOUT, et. al.,

Defendants.

NO. CV-07-281-EFS

**ORDER GRANTING DEFENDANTS'
MOTION FOR JUDGMENT ON THE
PLEADINGS**

Before the Court, without oral argument, is Defendants' Motion for Judgment on the Pleadings. (Ct. Rec. 26.) After reviewing the submitted material and relevant authority, the Court is fully and informed and grants Defendants' motion. The reasons for the Court's Order are set forth below.

I. Background

Plaintiff Ron Bounds is a *pro se* prisoner currently incarcerated at the Airway Heights Corrections Center. In July 2005, Plaintiff began working for the Washington Department of Corrections in the Correctional Industries (CI) work program. Approximately two (2) months after starting work, CI supervisors allegedly informed Plaintiff that he was no longer eligible to work for CI because he was serving a life sentence for Murder 1 and Attempted Murder 1. Plaintiff unsuccessfully appealed

1 the CI supervisors' decision. Having exhausted his administrative
2 remedies, Plaintiff filed a complaint under 42 U.S.C. § 1983 alleging
3 Defendants violated his equal protection rights by denying him employment
4 in the CI work program.

5 **II. Discussion**

6 **A. Standard**

7 "After the pleadings are closed, but within such time as not to
8 delay the trial, any party may move for judgment on the pleadings." FED.
9 R. CIV. P. 12(c). Rule 12(c) motions are functionally identical to
10 Rule 12(b) motions, so the same standard applies. *Dworkin v. Hustler*
11 *Magazine, Inc.*, 867 F.2d 1188, 1192 (9th Cir. 1989). That is,
12 "[j]udgment on the pleadings is proper when the moving party clearly
13 establishes on the face of the pleadings that no material issue of fact
14 remains to be resolved and that it is entitled to judgment as a matter
15 of law." *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896 F.2d
16 1542, 1550 (9th Cir. 1989). In reviewing such motions, courts must
17 construe "all material allegations of the non-moving party as contained
18 in the pleadings as true, and [construe] the pleadings in the light most
19 favorable to the [non-moving] party." *Doyle v. Raley's Inc.*, 158 F.3d
20 1012, 1014 (9th Cir. 1998). Conclusory allegations, however, without
21 more, are insufficient to defeat a motion for judgment on the pleadings.
22 *McGlinchey v. Shell Chem. Co.*, 845 F.2d 802, 810 (9th Cir. 1988).

23 **B. Equal Protection Claim**

24 Plaintiff alleges that Defendants violated the Equal Protection
25 Clause by excluding him from the CI work program based on his life
26 sentence. (Ct. Rec. 32 at 4.) Defendants respond that dismissal is

1 appropriate because Plaintiff is neither a protected class member nor
2 constitutionally entitled to employment at prison. (Ct. Rec. 27 at 3.)

3 "The Equal Protection Clause of the Fourteenth Amendment commands
4 that no State shall 'deny to any person within its jurisdiction the equal
5 protection of the laws,' which is essentially a direction that all
6 persons similarly situated should be treated alike." *City of Cleburne*
7 *v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985). In addressing an
8 equal protection claim, courts must first decide the applicable level of
9 scrutiny. Strict scrutiny applies if the at-issue policy discriminates
10 against a suspect class or infringes upon a fundamental right.
11 *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992). In the absence of an
12 articulated suspect class or fundamental right, policies and statutes are
13 examined under the rational basis standard because "legislatures are
14 presumed to have acted within their constitutional power despite the fact
15 that, in practice, their laws result in some inequality." *Id.*

16 Prisoners are not a suspect class, *Glauner v. Miller*, 184 F.3d 1053,
17 1054 (9th Cir. 1999), and Plaintiff articulates no other suspect class
18 necessitating strict scrutiny review. Plaintiff also fails to articulate
19 a constitutional right at issue. See *James v. Quinlan*, 866 F.2d 627, 630
20 (3d. Cir. 1989), *cert. denied*, 493 U.S. 870 (1989) (recognizing that
21 prisoners have no entitlement to a specific job, or even to any job);
22 *Bulger v. U.S. Bureau of Prisons*, 65 F.3d 48, 49 (5th Cir. 1995) (noting
23 that prisoners have no constitutionally protected liberty or property
24 interests *per se* in their prison job assignments). While it is true
25 that, in limited circumstances, constitutionally protected liberty
26 interests may arise from state laws, no such rights arise when the state

1 law at issue grants significant discretion. See *In re Pers. Restraint*
2 *of Cashaw*, 123 Wn.2d 138, 144 (1994). RCW 72.09.460 is such a statute
3 because it confers considerable discretion to the DOC in determining how
4 to allocate inmate jobs.¹ Accordingly, rational basis is the appropriate
5 review standard.²

6 Even viewing the pleadings in Plaintiff's favor, judgment as a
7 matter of law is appropriate. RCW 72.09.460's purpose is to provide
8 inmates employment. When drafting the statute, the legislature
9 recognized that there are often more inmates than there are jobs.
10 RCW 72.09.460(2). To address this problem, the legislature tasked the
11 DOC with selecting eligible inmates to work, using the following factors
12 as a guide:

- 13 1) An inmate's release date and custody level;
- 14 2) An inmate's education history and basic academic skills;
- 15 3) An inmate's work history and vocational or work skills;
- 16 4) An inmate's economic circumstances, including but not limited
17 to an inmate's family support obligations; and
- 18 5) Where applicable, an inmate's prior performance in department-
19 approved education or work programs.

20
21 ¹RCW 72.09.460(2) states: "The department must make every effort to
22 achieve maximum public benefit by placing inmates in available and
23 appropriate education and work programs."

24 ²Plaintiff impliedly recognizes that rational basis is the proper
25 review standard by arguing in his memorandum that prison policies
26 resulting in unequal treatment must be reasonably related to a legitimate
penological interest. (Ct. Rec. 32 at 1.)

1 RCW 72.09.460(5)(a)(i)-(v).

2 Plaintiff is correct that inmates may not be precluded from
3 participating in a work program based *solely* on his or her release date.
4 But Defendants informed Plaintiff that his release date was one of many
5 factors considered in determining that he was not eligible for the CI
6 work program. (Ct. Rec. 20 at 4.) The decision not to hire Plaintiff,
7 therefore, was rationally related to the legitimate interest of
8 effectively prioritizing employment among inmates. So even viewing the
9 facts in Plaintiff's favor, he fails to state an Equal Protection
10 violation.

11 Accordingly, **IT IS HEREBY ORDERED:**

12 1. Defendants' Motion for Judgment on the Pleadings (**Ct. Rec. 26**)
13 is **GRANTED**.

14 2. Judgment of dismissal shall be entered **with prejudice**; and

15 3. This file shall be closed.

16 **IT IS SO ORDERED.** The District Court Executive is directed to enter
17 this Order and provide a copy to counsel and Plaintiff.

18 **DATED** this 19th day of August 2008.

19
20 S/ Edward F. Shea
21 EDWARD F. SHEA
22 United States District Judge

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